

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*  
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-BB

RIO CHAMA STREAM SYSTEM

Section 7, Rito de Tierra Amarilla

**MOTION FOR ORDER MAKING FINAL DETERMINATION OF  
PRIORITY DATES IN THE RITO DE TIERRA AMARILLA SUBSECTION  
OF SECTION 7 OF THE RIO CHAMA STREAM SYSTEM**

The Plaintiff State of New Mexico, *ex rel.*, State Engineer (“State”) respectfully requests the Court to enter its Order making a final determination of priority dates in the Rito de Tierra Amarilla Subsection of Section 7 of the Rio Chama Stream System (“Tierra Amarilla Subsection”), and in support of this motion states as follows:

1. Pursuant to the April 21, 2010, *Scheduling and Procedural Order for Determination of Priority Dates and Irrigation Water Requirements in the Tierra Amarilla Subsection of Section 7 of the Rio Chama Stream System* (Docket No. 9687), each of the individual subfile defendants in the Tierra Amarilla Subsection, the United States of America and the Commissioners of each Community Ditch in the Tierra Amarilla Subsection have been served with the Court’s Notice and Order to Show Cause in connection with the determination of priority dates and irrigation water requirements in the Tierra Amarilla Subsection of Section 7 of the Rio Chama Stream System. *See Certificate of Service* filed June 6, 2010 (Docket No. 9899). Service of the Court’s Notice and Order

to Show Cause included a copy of a letter from the Special Master explaining the proceedings and a form Objection and Response to Notice and Order to Show Cause as directed by the May 4, 2010, *Order Granting Motion for Approval of Form of Notice and Orders to Show Cause* (Docket No. 9707).

2. The Court's Notice and Order to Show Cause has been published as required in the Rio Grande Sun once each week for 4 consecutive weeks, the first publication being on the 3<sup>rd</sup> day of June 2010, and the last publication being on 24<sup>th</sup> day of June 2010. *See Proof of Publication of [Corrected] Notice and Order to Show Cause* filed July 27, 2010 (Docket No. 9920).

3. Pursuant to the Court's Notice and Order to Show Cause, the deadline for the filing of an objection to the State's proposed determination of priority dates and irrigation water requirements in the Tierra Amarilla Subsection was July 31, 2010.

4. Two parties filed objections to the priority dates proposed by the State. *See Objections and Response to Notice and Order to Show Cause* filed by Colomex Oil and Gas Co. (July 22, 2010, Docket No. 9914) and Lionel Martinez (August 4, 2010, Docket No. 9930). These objections were dismissed by the Court for failure of the parties to appear at a mandatory scheduling and pretrial conference. *See Order* filed January 5, 2011, Docket No. 9993). There are no other objections to the State's proposed determination of priority dates in the Tierra Amarilla Subsection.

5. Objections to the State's proposed determination of irrigation water requirements in the Tierra Amarilla Subsection will be addressed separately and at a later date in these proceedings.

WHEREFORE the Plaintiff State of New Mexico requests that the Court enter its Order making a final determination of priority dates in the Tierra Amarilla Subsection of Section 7 of the Rio Chama Stream System. A proposed Order granting this motion is attached hereto as Exhibit 1.

DATED March 23, 2011

Respectfully submitted,

/s/ Ed Newville

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 23st day of March, 2011, I filed the foregoing electronically through the CM/ECF system which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail.

/s/ Ed Newville

Edward G. Newville